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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/851,030	05/07/2001	Michael Cristofalo	5216.00	2495
25227	7590	08/10/2005	EXAMINER	
MORRISON & FOERSTER LLP 1650 TYSONS BOULEVARD SUITE 300 MCLEAN, VA 22102			BUI, KIEU OANH T	
			ART UNIT	PAPER NUMBER
			2611	

DATE MAILED: 08/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/851,030	Applicant(s) CRISTOFALO, MICHAEL	
	Examiner KIEU-OANH T. BUI	Art Unit 2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-79 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-79 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed December 06, 2004 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

Claim Rejections - 35 USC 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

*A person shall be entitled to a patent unless --
(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.*

3. Claims 1-79 are rejected under 35 U.S.C. 102(e) as being anticipated by Gershman et al. (U.S. Patent No. 6,401,085 B1).

Regarding claim 1, Gershman discloses "a method for providing targeted programming to a user outside of the user's home, the method comprising: receiving at least one of the user identification and a user profile; selecting a program based at least in part on the at least one of the user identification and the user profile; and providing the program for presentation to a user outside of the user's home" (Fig. 10B and col. 40/lines 28-54 for steps of providing targeted

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program to the user by using the user's profile, and as shown in Fig. 20, the user identification is required to access to the server system, as also illustrated in Fig. 17, and the requested content is delivered to the user remotely to a mobile device of the user, which is outside of the user's home, refer to col. 3/lines 14-28).

As for claim 2, Gershman meets this limitation as the user profile is obtained associated with the user identification (Fig. 13, col. 41/line 51 to col. 42/line 3).

As for claims 3 and 4, Gershman discloses the program is selected based on the user profile which is obtained from a database (Figs. 10B, 17 & 18, and col. 43/line 45 to col. 44/line 13 for personal profile is used for personalized services to the user).

As for claim 5 and 16, Gershman meets these limitation as user profile and the program is obtained from at least memory or data storage (Figs. 17 & 18).

As for claim 6 and 7, Gershman further discloses a controller to perform one or more functions as disclosed above in receiving, obtaining the user profile and selecting, providing the program (Fig. 25 and col. 47/lines 42-51 for the intelligent agent acts as a controller to operform these tasks) and the user identification is associate with a single user (Fig. 20, each user has a personal password to sign in and access to the system network).

As for claim 8, Gershman further discloses the user identification is associated with a group including the user (col. 44/lines 14-37).

As for claim 9, Gershman further discloses the user identification including one or more from the list (col. 41/line 22 to col. 42/line 50).

As for claims 10-11, Gershman further discloses the user profile is associated with a single user, or a group including the user (col. 44/lines 14-36 as more than one persons can be associated to a single profile based on the example).

As for claim 12 and 13, Gershman discloses the user has user interface device for receiving the user identification (as shown in Fig. 17 for a number of user interface devices, and the program is delivered to the presentation device (as shown in Fig. 1, item 138 and as illustrated in Fig. 1A with a portable and wireless PDA device).

As for claim 14, Gershman discloses the program is transmitted over at least one from the selected medium as of the list (Fig. 17 & 24 for the Internet).

As for claim 15, Gershman further discloses this limitation as the user requests for the content or program, the query is searched and matched in patterns, which is regarding as segments (refer to col. 16/line 10-65 & col. 77/claim 3 for the code segment in having query for the user's request).

As for claims 17 and 18, Gershman discloses "generating the program" and "the program is generated in real-time" (col. 1/line 49 to col. 2/line 38 & Fig. 26 for the wireless PDA device can access directly to a host computer for interactively request and obtain program or any other information instantly, and col. 10/lines 10-19 for real-time stock information can be obtained).

As for claim 19, Gershman discloses "the presentation device including a user identification component and an output component", i.e., user inputs for identification via user inputs or sensors on the wireless device, and an output component as the display screen (Fig. 26, and col. 60/line 50 to col. 61/line 21).

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As for claim 20, Gershman discloses “wherein the at least one of the user identification and the user profile is received from a user identification device” (the user can either uses a PDA for obtaining/accessing the user profile via a profile gateway server, Fig. 17 and col. 43/line 45 to col. 44/line 13 and/or he/she uses a smart card containing user profile information as the user identification device, refer to col. 64/lines 14-36).

As for claim 21, Gershman meets wherein the user identification devices includes one or more devices selected from the group list (Fig. 17 & 26, and col. 43/line 45 to col. 44/line 37 for PDA, smart card, and col. 49/line 18-22 for voice recognition, and col. 4/lines 56-62 for a touch screen).

As for claims 22 and 23, Gershman shows wherein the program is provided to a user via at least one presentation device selected from the group list, and the device is a standalone unit (Fig. 17 for consumer access devices for individual use as a stand-alone unit).

As for claim 24, Gershman teaches to provide the presentation device including communication hardware and software to allow the user to connect a user device for receiving the programming (refer to Figs. 17-27 for flowcharts of hardware and software of the present invention of Gershman).

As for claims 25-27, Gershman teaches the program is provided to the user via a plurality of medium, either wireless or wired, analog or digital, internet, telephone, television, computer, PDA etc. and programming can be one form from the group list such as news, video, audio, entertainment, information etc. and from one of selected formats, refer to multimedia services (see Fig. 17, and col. 43/line 45 to col. 45/line 22 and col. 60/line 50 to col. 65/line 29 for a plurality of multimedia services).

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Regarding claims 28-78, these claims with same limitations are rejected for the reasons given in the scope of claims 1-27 as disclosed in details above (to avoid unnecessary repetitions).

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Getsin et al (US Patent 6,769,130 B1), Holtz et al (US Patent 6,760,916 B2), and Hesselink et al (US Patent 6,732,158 B1) disclose systems related to multimedia presentation services.

5. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9306, (for Technology Center 2600 only)

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kieu-Oanh Bui whose telephone number is (571) 272-7291. The examiner can normally be reached on Monday-Friday from 9:00 AM to 6:30 PM, with alternate Fridays off.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'K. Bui', with a long horizontal flourish extending to the right.

Kieu-Oanh Bui
Primary Examiner
Art Unit 2611

KB
July 29, 2005